

## National Science Foundation

## § 681.5

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the authority, recipient, or party when such a claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision of a State, acting for or on behalf of NSF.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section may also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such a claim.

(b) *Statements.* (1) Any person shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each statement if that person makes a written statement that the person knows or has reason to know—

(i) Asserts a material fact which is false, fictitious, or fraudulent; or

(ii) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such a statement; and

(iii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of this statement.

(2) A person will only be subject to a civil penalty under 681.3(b)(1) if the written statement made by the person contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of this statement.

(3) Each written representation, certification, or affirmation constitutes a separate statement.

(4) A statement shall be considered made to NSF when it is actually made to an agent, fiscal intermediary, or other entity, including any State or

political subdivision of a State, acting for or on behalf of NSF.

(c) No proof of specific intent to defraud is required to establish liability under this section.

(d) In any case in which it is determined that more than one person is liable for making a false, fictitious, or fraudulent claim or statement under this section, each such person may be held liable for a civil penalty and assessment, where appropriate, under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment, an assessment may be imposed against any such person or jointly and severally against any combination of persons.

### PROCEDURES LEADING TO ISSUANCE OF A COMPLAINT

#### § 681.4 Who investigates program fraud?

The Inspector General, or his or her designee, is the investigating official responsible for investigating allegations that a false claim or statement has been made. In this regard, the Inspector General has authority under PFCRA and the Inspector General Act of 1978 (5 U.S.C. App. 3), as amended, to issue administrative subpoenas for the production of records and documents.

#### § 681.5 What happens if program fraud is suspected?

(a) If the investigating official concludes that an action under this part is warranted, the investigating official submits a report containing the findings and conclusions of the investigation to the reviewing official. If the reviewing official determines that the report provides adequate evidence that a person made a false, fictitious or fraudulent claim or statement, the reviewing official shall transmit to the Attorney General written notice of an intention to refer the matter for adjudication, with a request for approval of such referral. This notice will include the reviewing official's statements concerning:

(1) The reasons for the referral;